

regulations are to 19 CFR Part 351 (2000).

Background

On April 17, 2001, the Department initiated an antidumping duty investigation on greenhouse tomatoes from Canada covering producers and exporters of the subject merchandise to the United States during the period January 1, 2000, through December 31, 2000. See *Initiation of Antidumping Duty Investigation: Greenhouse Tomatoes From Canada*, 66 FR 20630 (April 24, 2001). The notice stated that, unless postponed, the Department would issue its preliminary determination no later than 140 days after the date of the initiation. On August 21, 2001, the Department published a partial extension of the time limit for the preliminary results of this investigation based on a timely request by the petitioner. See *Antidumping Duty Investigation Covering Greenhouse Tomatoes from Canada: Notice of Postponement of Preliminary Determination*, 66 FR 43838 (August 21, 2001).

Postponement of Preliminary Determination

Currently, the preliminary determination is due no later than September 24, 2001. However, pursuant to section 733(c)(1)(B) of the Act, we have determined that this investigation is "extraordinarily complicated" and are therefore postponing the preliminary determination by seven days to October 1, 2001.

Under section 733(c)(1)(B) of the Act, the Department can extend the period for reaching a preliminary determination until not later than the 190th day after the date on which the administering authority initiates an investigation if:

(B) The administering authority concludes that the parties concerned are cooperating and determines that—

(i) the case is extraordinarily complicated by reason of—

(I) the number and complexity of the transactions to be investigated or adjustments to be considered,

(II) the novelty of the issues presented; or

(III) the number of firms whose activities must be investigated; and

(ii) additional time is necessary to make the preliminary determination.

The parties concerned are cooperating in this investigation. Additional time is necessary, however, to complete the preliminary determination due to the number of firms whose activities must be investigated. Specifically, there are over 100 Canadian producers/exporters

that shipped fresh or chilled tomatoes to the United States during the period of investigation, and most of these producers/exporters ship greenhouse tomatoes. Since it was not practicable to examine all known producers/exporters of subject merchandise, in accordance with section 777A(c)(2) of the Act and 19 CFR 351.204(c)(2), we chose to investigate producers and exporters accounting for the largest volume of the subject merchandise that can reasonably be examined. See the "Selection of Respondents" memorandum dated May 15, 2001, from Laurie Parkhill, Director, Office 3, to Richard W. Moreland, Deputy Assistant Secretary, Group I. Although this limited our examination to five producers/exporters of subject merchandise, several of these respondents had over a dozen suppliers that we needed to evaluate for cost reporting. After identifying the appropriate companies for cost reporting and issuing questionnaires to these companies, we discovered that two of them were resellers of greenhouse tomatoes, not growers. Therefore, we had to request cost-of-production data from the growers that supplied these resellers. After selecting five producers/exporters for reporting sales data and eight growers for reporting cost-of-production data, we discovered several affiliations among these companies that resulted in revisions to our requests for information. Investigating the activities of this large number of companies, and considering the complex sales, cost, and affiliation issues associated with them, has significantly delayed our issuance of requests for information. In addition, this has delayed our ability to review and analyze this information for purposes of calculating dumping margins. As such, we determine that additional time is necessary to complete the preliminary determination in this investigation.

Further, certain members of the Department's team in this investigation were unable to return to the United States from abroad as scheduled during the week of September 10, 2001, due to the closure of the U.S. air system. Because these individuals were knowledgeable about the issues and facts in this investigation and had the responsibility to prepare the preliminary calculations, their delayed return to the United States has affected the Department's ability further to prepare an accurate preliminary determination for this investigation by September 24, 2001.

Therefore, pursuant to section 733(c)(1)(B) of the Act, we are postponing the preliminary

determination in this investigation until October 1, 2001. This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

Dated: September 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01-24246 Filed 9-26-01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-864]

Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: September 27, 2001.

FOR FURTHER INFORMATION CONTACT: Jennifer Gehr or Shawn Thompson, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1779 or (202) 482-1776, respectively.

SUMMARY: On April 30, 2000, the Department of Commerce published its preliminary determination of sales at less than fair value of pure magnesium in granular form from the People's Republic of China. The period of investigation is April 1, 2000, through September 30, 2000.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled "Final Determination."

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations

to the regulations of the Department of Commerce (the Department) are to 19 CFR part 351 (2000).

Final Determination

We determine that pure magnesium in granular form from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

Case History

The preliminary determination in this investigation was issued on April 23, 2001. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 21314 (April 30, 2001) (*Preliminary Determination*).

In June, we conducted verification of the questionnaires responses of the sole participating respondent in this case, Minmetals Precious & Rare Minerals Import and Export/China National Nonferrous Metals Industry Trading Group Corp. (Minmetals).

In July, we received case briefs from the petitioners (*i.e.*, Magnesium Corporation of America, the United Steelworkers of America, USWA 482 and 8319, and Concerned Employees of Northwest Alloys, Inc.) and the respondent, as well as from two U.S. producers of magnesium-based reagent mixtures and importers of magnesium products (*i.e.*, Rossborough Manufacturing Co L.P. (Rossborough) and ESM Group, Inc.). The Department held a public hearing on August 2, 2001, at the request of the petitioners, Minmetals, and Rossborough.

Although the deadline for this determination was originally September 12, 2001, in light of the events of September 11, 2001 and the subsequent closure of the Federal Government for reasons of security, the time-frame for issuing this determination has been extended by two days.

Scope of Investigation

There is an existing antidumping duty order on pure magnesium from the PRC. See *Notice of Antidumping Duty Orders: Pure Magnesium From the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium From the Russian Federation*, 60 FR 25691 (May 12, 1995). The scope of this investigation excludes pure magnesium that is already covered by the existing order, and classifiable under item numbers 8104.11.00 and 8104.19.00 of

the *Harmonized Tariff Schedule of the United States* (HTSUS).

The scope of this investigation includes imports of pure magnesium products, regardless of chemistry, including, without limitation, raspings, granules, turnings, chips, powder, and briquettes, except as noted above.

Pure magnesium includes: (1) products that contain at least 99.95 percent primary magnesium, by weight (generally referred to as "ultra-pure" magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent primary magnesium, by weight (generally referred to as "pure" magnesium); (3) chemical combinations of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an "ASTM Specification for Magnesium Alloy"¹ (generally referred to as "off-specification pure" magnesium); and (4) physical mixtures of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight. Excluded from this order are mixtures containing 90 percent or less pure magnesium by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures. The non-magnesium granular materials which the Department is aware are used to make such excluded reagents are: lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, aluminum, alumina (Al₂O₃), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomitic lime, and colemanite. A party importing a magnesium-based reagent which includes one or more materials not on this list is required to seek a scope clarification from the Department before such a mixture may be imported free of antidumping duties.

The merchandise subject to this investigation is classifiable under item 8104.30.00 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Comments on Scope

We made changes to the scope based on comments received from interested

¹The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys*.

parties. See *Comment 14* of the Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Pure Magnesium from the People's Republic of China (Decision Memorandum), from Richard W. Moreland, Deputy Assistant Secretary, Import Administration to Faryar Shirzad, Assistant Secretary for Import Administration, dated September 14, 2001.

Period of Investigation

The period of investigation is April 1, 2000 through September 30, 2000, which corresponds to Minmetals' two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, October 2000).

Nonmarket Economy Status for the PRC

The Department has treated the PRC as a nonmarket economy (NME) country in all past antidumping investigations. See, *e.g.*, *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (Dec. 31, 1998). A designation as a NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. No party in this investigation has requested a revocation of the PRC's NME status. Therefore, we have continued to treat the PRC as an NME in this investigation. For further details, see the *Preliminary Determination*.

Separate Rate

In our preliminary determination, we found that Minmetals had met the criteria for receiving a separate antidumping rate. We have not received any information since the preliminary determination which would warrant reconsideration of our separate rate determination with respect to this company. Therefore, we continue to find that Minmetals should be assigned in individual dumping margin. For further discussion, see *Comment 1* in the Decision Memorandum.

Surrogate Country

For purposes of the final determination, we continue to find that India is the appropriate primary surrogate country for the PRC. For further discussion and analysis regarding the surrogate country selection for the PRC, see the *Preliminary Determination*, 66 FR at 18442.

PRC-Wide Rate and Use of Facts Otherwise Available

As explained in the Department's *Preliminary Determination*, Minmetals was the only exporter to respond to the

Department's questionnaire and cooperative in this investigation. Therefore, we have continued to calculate a company-specific rate for Minmetals only. However, in the preliminary determination, we stated that our review of U.S. import statistics from the PRC revealed that Minmetals did not account for all imports into the United States from the PRC. For this reason, we determined that some PRC exporters of subject merchandise failed to cooperate in this investigation. In accordance with our standard practice, as adverse facts available, we are assigning at the PRC-wide rate the higher of: (1) the highest margins stated in the notice of initiation; or (2) margin calculated for Minmetals. See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From The People's Republic of China*, 65 FR 34660 (May 31, 2000) and accompanying decision memorandum at *Comment 1*. For purposes of the final determination of the investigation, we are using the margin stated in the notice of initiation (i.e., 305.56 percent) since it is higher than the margin calculated for Minmetals.

Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Decision Memorandum, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B-099 of the main Commerce Building. In addition a complete version of the Decision Memorandum can be accessed directly to the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memorandum.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and

original source documents provided by the respondent.

Final Determination

We determine that the following percentage weighted-average margins exist for the period April 1, 2000 through September 30, 2000:

Manufacturer/exporter	Margin (percent)
Minmetals Precious & Rare Minerals Import and Export/China National Nonferrous Metals Industry Trading Group Corp	24.67
PRC-Wide Rate	305.56

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of pure magnesium in granular form from the PRC that are entered, or withdrawn from warehouse, for consumption on or after April 30, 2001. The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown above. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information

disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 735(d) and 777(i) of the Act.

Dated: September 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

Comments

- Comment 1: Separate Rate for Minmetals
- Comment 2: The Use of a Combination Rate
- Comment 3: The Proper Surrogates for Overhead, SG&A and Profit Ratios
- Comment 4: Calculation of Overhead and SG&A Ratios Applied to HEBI
- Comment 5: Valuation of Steam Coal
- Comment 6: Valuation of Ferrosilicon and Dolomite
- Comment 7: Marine Insurance Adjustment for Inflation
- Comment 8: Ocean Freight
- Comment 9: Treatment of Fluorite Powder as Overhead Expense vs. Direct material Input
- Comment 10: Valuation of Tiayuan's July 2000 Electricity Consumption Factor
- Comment 11: Correction of Tiayuan's Direct Labor Hours
- Comment 12: Correction of HEBI's Packing Material Weights
- Comment 13: Treatment of Magnesium Shreds
- Comment 14: Revision to the Scope of the Investigation
- Comment 15: Reconsideration of Industry Standing

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-813]

Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at not less than fair value.

EFFECTIVE DATE: September 27, 2001.

FOR FURTHER INFORMATION CONTACT: Alysia Wilson or Shawn Thompson,